

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

UNITED STATES OF AMERICA	)	
<i>ex rel.</i> KELLI WILLIAMS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO.
	)	1:18-CV-0680-SCJ
SOUTHERN COMPANY, INC.,	)	
SOUTHERN COMPANY SERVICES,	)	
INC., AND MISSISSIPPI POWER	)	FILED EX-PARTE
COMPANY,	)	<u>AND UNDER SEAL</u>
	)	
Defendants.	)	

**THE UNITED STATES' MOTION TO REOPEN AND  
NOTICE OF ELECTION TO DECLINE INTERVENTION**

The United States respectfully moves, *ex parte*, to reopen the above-captioned *qui tam* action under the False Claims Act (FCA), 31 U.S.C. §§ 3729, *et seq.*, and notifies the Court of the United States' decision not to intervene in the action. In support, the United States shows as follows:

On February 14, 2018, Relator Kelli Williams filed the Complaint in this action, under seal, pursuant to the *qui tam* provisions of the FCA, 31 U.S.C. § 3730(b). By Order dated April 16, 2018, the Court granted the United States' request for an initial extension of the statutory intervention and seal period, and

further ordered that the case be administratively terminated pending the United States' decision as to whether or not it will intervene, subject to reopening upon motion of the United States at the appropriate time. (Dkt. No. 5.)

The United States, having conducted its investigation and made its determination regarding intervention, now respectively moves to reopen the case, and pursuant to 31 U.S.C. § 3730(b)(4)(B), the United States notifies the Court of its decision not to intervene in this action.

Although the United States declines to intervene, we respectfully refer the Court to 31 U.S.C. § 3730(b)(1), which allows the relator to maintain the action in the name of the United States; providing, however, that the “action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting.” Id. Therefore, the United States requests that, should either the relator or any of the defendants propose that this action be dismissed, settled, or otherwise discontinued, this Court solicit the written consent of the United States before ruling or granting its approval.

Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all pleadings filed in this action be served upon the United States; the United States also requests that orders issued by the Court be sent to the Government's counsel. The United States reserves its right to order any deposition transcripts, to intervene in this action, for good cause, at a later date, and to seek the dismissal of

the relator's action or claims. The United States also requests that it be served with all notices of appeal.

Finally, the Government requests that the relator's Complaint, this Motion and Notice, and the attached proposed Order be unsealed. The United States requests that all other papers on file in this action remain under seal because in discussing the content and extent of the United States' investigation, such papers are provided by law to the Court alone for the sole purpose of evaluating whether the seal and time for making an election to intervene should be extended.

A proposed order accompanies this Motion and Notice.

Respectfully submitted,

BRYAN M. BOYNTON  
PRINCIPAL DEPUTY ASSISTANT  
ATTORNEY GENERAL

RYAN K. BUCHANAN  
UNITED STATES ATTORNEY

/s/NEELI BEN-DAVID  
Assistant U.S. Attorney  
Georgia Bar No. 049788  
600 Richard B. Russell Federal Bldg.  
75 Ted Turner Drive, S.W.  
Suite 600  
Atlanta, Georgia 30303  
Telephone: (404) 581-6303  
Email: neeli.ben-david@usdoj.gov

JAMIE ANN YAVELBERG

ROBERT J. MCAULIFFE  
JEFFREY A. TOLL  
Attorneys, Civil Division  
United States Department of Justice  
175 N Street, NE  
Washington, D.C. 20002  
Telephone: (202) 305-2038  
Email: Jeffrey.Toll@usdoj.gov

Counsel for the United States of America

Dated: July 11, 2023